

HOUSE BILL REPORT

HB 2116

As Reported by House Committee On:
Economic Development, Agriculture & Trade

Title: An act relating to livestock nutrient management equipment and facilities.

Brief Description: Providing a livestock nutrient tax exemption.

Sponsors: Representatives Pettigrew, Newhouse and Linville.

Brief History:

Committee Activity:

Economic Development, Agriculture & Trade: 2/25/05, 3/2/05 [DPS].

Brief Summary of Substitute Bill

- Extends the existing retail sales and use tax exemptions for dairy nutrient management equipment and facilities to certain livestock operations.

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Blake, Buri, Chase, Clibborn, Condotta, Dunn, Grant, Haler, Holmquist, Kenney, Kilmer, Kretz, McCoy, Morrell, Newhouse, Quall, Strow, P. Sullivan and Wallace.

Staff: Meg Van Schoorl (786-7105).

Background:

In 1998, the Legislature enacted the Dairy Nutrient Management Act (Act) to address water quality concerns associated with dairy farm nutrients. The legislation required that each dairy farm in the state develop and implement a nutrient management plan that met standard specifications by December 31, 2003. Plans included both physical and management elements. Physical elements included items such as pumps, pipes, spray guns, lagoons, concrete pads and structures, gutters and downspouts.

In 2001, the Legislature approved a retail sales and use tax exemption to help dairy farmers comply with the Act. Once a dairy nutrient management plan has been certified as fully implemented, the purchase of services, replacement equipment and parts necessary to maintain the plan are exempted from the retail sales and use tax.

Since 2003, there have been statutory and rule changes at the state and federal levels that broaden dairy nutrient management requirements to also encompass certain livestock operations. In February 2003, the U.S. Environmental Protection Agency (EPA) adopted rules affecting how animal feeding operations (AFOs) and concentrated animal feeding operations (CAFOs) would be regulated for the purposes of controlling water pollution. These rules expanded the type and number of CAFOs required to obtain National Pollutant Discharge Elimination System (NPDES) permits. In response to the federal rule changes, the Department of Ecology (DOE) is developing a general CAFO NPDES permit to become effective in spring 2005. The general permit will require CAFOs to develop and implement nutrient management plans by December 31, 2006.

Summary of Substitute Bill:

An exemption from the retail sales tax is provided for sales to an eligible person of: (1) services for operating, repairing, cleaning, altering or improving equipment and facilities used exclusively to maintain a livestock nutrient management plan; or (2) tangible personal property that becomes an ingredient or component of the equipment and facilities.

An exemption from the retail use tax is provided for sales to an eligible person of: (1) tangible personal property that becomes an ingredient or component of livestock nutrient management equipment or facilities; or (2) labor and services for repairing, cleaning, altering or improving eligible tangible personal property. The equipment and facilities must be used exclusively to maintain a livestock nutrient management plan.

The sales and use tax exemptions are applied only after nutrient management plans are certified.

An exemption from the retail sales and use tax is provided for sales to an eligible person: (1) establishing or operating an anaerobic digester; or (2) of services to install, construct, repair, clean, alter, or improve an anaerobic digester; or (3) of tangible personal property that becomes an ingredient or component of the anaerobic digester. The anaerobic digester must be primarily used to treat manure.

The Department of Agriculture must give the Department of Revenue (DOR) a list of persons eligible for the tax exemption. Upon application by an eligible person, the DOR must provide an exemption certificate, which must be given to the seller in order for the eligible person to receive the exemption. The seller must retain a copy for the files.

"Livestock nutrient management equipment and facilities" are machinery, equipment and structures used to handle and treat livestock manure. Examples of such equipment and machinery include aerators, agitators, alley scrapers, augers, dams, gutter cleaners, loaders, lagoons, pipes, pumps, separators, and tanks.

"Eligible persons" are those who hold an NPDES permit and have a certified livestock nutrient management plan by December 31, 2006.

Substitute Bill Compared to Original Bill:

An exemption from the retail use tax is provided for sales to an eligible person of: (1) tangible personal property that becomes an ingredient or component of livestock nutrient management equipment or facilities; or (2) labor and services for repairing, cleaning, altering or improving eligible tangible personal property. The equipment and facilities must be used exclusively to maintain a livestock nutrient management plan.

An exemption from the retail sales and use tax is provided for sales to an eligible person: (1) establishing or operating an anaerobic digester; or (2) of services to install, construct, repair, clean, alter, or improve an anaerobic digester; or (3) of tangible personal property that becomes an ingredient or component of the anaerobic digester. The anaerobic digester must be primarily used to treat manure. The date by which the certified livestock nutrient management plan must be in place is December 31, 2006, rather than April 14, 2006. An emergency clause is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This is a very important piece of legislation in light of the upcoming requirements for concentrated animal feeding operations (CAFO) to include livestock nutrient management plans. In the 2001 session, this tax exemption was enacted to help the dairy industry comply with the nutrient management requirements. The industry makes an initial investment in equipment and facilities in order to have a fully implemented dairy farm nutrient management plan. There is no tax exemption for the initial investment. It is only after the initial implementation that the tax exemption becomes available for repairs, maintenance and replacement. There is a Department of Revenue estimate of \$700,000 in lost revenue on the Senate version of this bill. It is hard to understand how they could come up with that number since 150 livestock farmers don't even have farm plans yet; we do not know what will be in the farm plans yet; they won't be done this year; the farmer must first spend the money to fully implement the plan; the exemption is only on repairs and maintenance after the initial investment. Seven hundred thousand dollars in lost revenue would require a \$10 million annual investment in repairs and replacement. We need better calculations done on these impacts. The exemptions are a very good gesture of partnership between the industry and the state to benefit the environment. The CAFO Program will require a large amount of capital investment by the industry. The cattle industry will be much more extensively regulated than in the past if the CAFO program is fully implemented, and will be a large burden to several operations. The environmental benefits of this tax incentive will far exceed the tax savings.

Testimony Against: None

Persons Testifying: Representative Pettigrew, prime sponsor; Chris Cheney, Washington State Dairy Federation and Washington Fryer Commission; and Jack Field, Washington Cattlemen's Association.

Persons Signed In To Testify But Not Testifying: None.